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PATRICK E. DUFFY

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

BRIAN NAUMAN,	)	CV-06-29-M-DWM
	)	
Petitioner,	)	
	)	
vs.	)	ORDER
	)	
STATE OF MONTANA,	)	
	)	
Respondent.	)	
_____	)	

United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation (dkt #6) in this matter on September 13, 2006. Petitioner Nauman timely objected and so is entitled to de novo review of the record. 28 U.S.C. § 636(b)(1). The Court agrees with Judge Lynch's Findings and Recommendation.

Petitioner is a state prisoner who is *pro se* seeking to proceed *in forma pauperis* for a an extraordinary writ. He already has a pending writ of habeas corpus under 28 U.S.C. § 2254 in this Court. The Parties are familiar with the procedural and factual background so they will not be recited.

Nauman claims that pursuant to Montana contract law the Montana Supreme Court wrongly rejected his petitions for writ of

habeas corpus. . He avers that the Supreme Court failed to properly address the petitions and thereby erred under contract law.

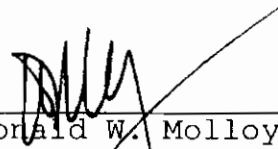
Judge Lynch correctly determined that Nauman's petition must be denied for three reasons: 1) this Court is not an avenue for a writ of extraordinary relief; 2) because Nauman asserts a violation of Montana law, it is the Montana Supreme Court that is the ultimate authority on the issue, not the United States District Court (*Estelle v. McGuire*, 502 U.S. 62, 67-68 (1991)); and 3) the *Rooker-Feldman* doctrine precludes this Court's ability to review the Montana Supreme Court's determinations.

The Court has reviewed Nauman's objections and does not find them compelling. Judge Leif B. Erickson may have granted Nauman's petition to proceed *in forma pauperis*, but that does not imply an approval of the petition for extraordinary writ. Moreover, as set forth above there are several reasons for dismissing the petition.

Thus, based on the foregoing, IT IS HEREBY ORDERED that Judge Lynch's Findings and Recommendations (dkt #6) are adopted in full: Nauman's Petition (dkt #1) is DISMISSED; and

IT IS FURTHER ORDERED that the motion to reconsider (dkt #7), which actually is Petitioner's objections, is DENIED for the reasons set forth above.

DATED this 13<sup>th</sup> day of October, 2006.



Donald W. Molloy, Chief Judge  
United States District Court

